

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WISCONSIN

ROBERT PARK individually and on)	
behalf of all others similarly situated,)	
)	
Plaintiff,)	3:22-cv-00171-WMC
)	
v.)	
)	
AMERICAN FAMILY LIFE)	
INSURANCE COMPANY and)	
AMERICAN FAMILY MUTUAL)	
INSURANCE COMPANY, S.I.)	
)	
Defendants.)	

**JOINT MOTION TO STAY PROCEEDINGS PENDING SEVENTH CIRCUIT
DECISION IN RELATED CASE**

Plaintiff Robert Park, individually and on behalf of all others similarly situated, and Defendants, American Family Life Insurance Company and American Family Mutual Insurance Company, S.I. (“Defendants”), hereby respectfully move to stay all proceedings and adjourn all current deadlines pending a decision by the Seventh Circuit Court of Appeals in the related matter *Baysal et al. v. Midvale Indemnity Company et al.*, Case No. 3:21-cv-00394-WMC (W.D. Wis.) (“*Baysal*”), which is currently on appeal from a judgment entered by this Court on April 19, 2022. *See id.*, Dkt. 36. In support of their motion, the parties state as follows:

1. The complaint in this case, which asserts a nationwide class action for claims for violation of the Drivers’ Privacy Protection Act, negligence, violation of the California Consumer Privacy Act, violation of California’s unfair competition law, and declaratory and injunctive relief, was filed on March 28, 2022. Dkt. 1.

2. On April 19, 2022, this Court dismissed *Baysal v. Midvale Indemnity Company*, No. 21-cv-394, for lack of standing, entered judgment, and ordered Plaintiff in this case to show cause why this case should not be dismissed for lack of standing as well. Dkt. 5.

3. Plaintiff timely appealed the *Baysal* judgment. *Baysal*, Dkt. 37. Briefing in the *Baysal* appeal is currently taking place.

4. Plaintiff filed his response to the show cause order in this litigation on May 3, 2022. Dkt. 6. This Court issued an Order discharging the rule to show cause on June 17, 2022. Dkt. 9.

5. Defendants filed a motion to dismiss Plaintiff Park's complaint on July 15, 2022. Dkt. 12. Plaintiff's response is currently due August 15, 2022. Dkt. 12.

6. The parties currently have a telephone Pretrial Conference set for August 23, 2022. *See* Dkt. (July 18, 2022);

https://www.wiwd.uscourts.gov/sites/default/files/Standing_Order_Pretial_SLC.pdf. At that conference, the parties expect that the Court would set a schedule based on the conference required by Fed. R. Civ. P. 26(f) and report filed by the parties. Under that schedule, the discovery stay in this matter would most likely expire before any decision might be issued in *Baysal*.

7. There is substantial overlap between the issues raised by Defendants' motion to dismiss and the issues currently on appeal in the *Baysal* matter: specifically, the scope of Article III standing, and evaluation of injury-in-fact, traceability, and redressability in cases involving theft of driver's license numbers. *See* Dkt. 12. In addition, the scope of discovery and class certification may depend on the Seventh Circuit Court of Appeals' ruling. As a result, to avoid

duplicate work, and in the interests of judicial efficiency, the parties have met and conferred and jointly agree that the matter should be stayed pending the outcome of the *Baysal* appeal.

8. This motion is not being filed for purposes of delay, and it is believed that neither the Court nor either party will be prejudiced by the granting the stay. The parties shall jointly file a notice and report within three weeks of an order and/or mandate being issued in the *Baysal* appeal so that the parties may litigate the instant matter expeditiously.

9. Based on the stipulation, the parties agree, and the Court orders as follows:

a. All current motion deadlines are adjourned, and the pending Motion to Dismiss (Dkt. 12) is terminated, without prejudice as to re-filing after the disposition of the *Baysal* appeal.

b. The Preliminary Pretrial Conference set for August 23, 2022, is hereby adjourned, and the matter is stayed in its entirety: any and all deadlines in this case are stayed, and discovery is stayed.

c. Defendants have not waived any rights, claims, or defenses related to Plaintiff's complaint;

d. The Court may issue an Order granting this stipulated request for stay without a hearing;

e. Upon completion of the *Baysal* appeal, the parties shall meet and confer and submit a stipulated proposed order to the Court setting the deadline for Defendants to answer or otherwise respond to Plaintiff's complaint within three weeks of an order and/or mandate being issued in the *Baysal* appeal so that the parties may litigate the instant matter expeditiously.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: 8/2/2022 s/ Kate M. Baxter-Kauf

Kate M. Baxter-Kauf (*pro hac vice*)
David W. Asp
LOCKRIDGE GRINDAL NAUEN P.L.L.P.
100 Washington Avenue South, Suite 2200
Minneapolis, MN 55401
Tel.: 612.339.6900; Fax: 612.339.0981
kmbaxter-kauf@locklaw.com
dwasp@locklaw.com

Gayle M. Blatt (*pro hac vice*)
**CASEY GERRY SCHENK FRANCAVILLA
BLATT & PENFIELD, LLP**
110 Laurel Street
San Diego, CA 92101
Tel.: 619.238.1811; Fax: 619.544.9232
gmb@cglaw.com

Attorneys for Plaintiff and the Putative Class

DATED: 8/2/2022

s/ Christopher M. Assise

Theodore R. Scarborough
Christopher M. Assise (*pro hac vice*)
Stephen W. McInerney (*pro hac vice*)
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, IL 60603
Telephone: 312.853.2236
tscarborough@sidley.com
cassise@sidley.com
smcinerney@sidley.com

Sarah A. Zylstra, State Bar No. 1033159
BOARDMAN & CLARK LLP
1 South Pinckney Street, Suite 410
P.O. Box 927
Madison, WI 53701-0927
Tel.: 608.257.9521; Fax: 608.283.1709
szylstra@boardmanclark.com

*Attorneys for Defendants American Family Life Insurance
Company and American Family Mutual Insurance Company,
S.I.*

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____

United States District/Magistrate Judge